

REMARKS

Claims 8, 17, 19-20, 22-23, 25, and 28-49 have been cancelled without prejudice or disclaimer. Claims 1-2, 5, 9-10, and 16 have been amended. New Claims 50-52 have been added.

Restriction Requirement

Applicants hereby elect, with traverse, to prosecute Group II, which includes and is drawn to Claims 3-7 and 10-11, and new claims 51 and 52. Further, Applicants elect, with traverse, to prosecute claims related to the polynucleotide sequences encoding the polypeptide sequence of SEQ ID NO:6, which sequences include SEQ ID NO:26.

Applicants traverse both the restriction requirement and the obligation to elect a single sequence for prosecution which were imposed in the Office Action mailed October 1, 2003 for at least the following reasons.

Applicants reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications.

No Undue Burden

Applicants submit that the invention encompassed by the claims of Group II, (drawn to polynucleotides, expression vectors, and host cells) could be examined at the same time as the invention encompassed by the claims of Group I (polypeptides, method for production, and a composition) without undue burden on the Examiner. For example, a search of the prior art to determine the novelty of the polynucleotides of Group II would reveal information regarding the novelty of the polypeptides of Group I.

Therefore, Applicants respectfully request that the Examiner withdraw the Restriction Requirement and examine all the claims in a single application.

Moreover, Applicants submit that not only would there be no undue burden in examining Claims 12-14 (Group IV) and Claims 26-27 (Group VI), but, in addition, these claims are methods of using the polynucleotides of Group II. Therefore, Claims 12-14 and 26-27 should be examined together with the polynucleotides of Group II, per the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of process claims covering the same scope of products.

Please charge Deposit Account No. **09-0108** in the amount of **\$36.00** as set forth in the enclosed fee transmittal letter. If the USPTO determines that an additional fee is necessary, please charge any required fee to Deposit Account No. 09-0108.

Respectfully submitted,

INCYTE CORPORATION

Date: November 3, 2003



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Date: November 3, 2003



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Limited Recognition (37 C.F.R. § 10.9(b)) attached

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